

Attorney Docket No. 45112-089
Application No. 09/604,082

REMARKS

Claims 4, 7, 11, 13, 15, 17, 19, 21, 23, 25, 27, 29, 31, 33, 35, 37, 39, 41, 43 and 45-49 are pending. Claims 4, 7, 11, 13, 15, 17, 19, 21, 23, 25, 27, 29, 31, 33, 35, 37, 39, 41, 43 and 45-49 are amended to encompass infringing subject matter. Applicants reserve the right to file continuing applications. No new matter is introduced into the patent application.

Attached hereto is a marked-up version of the changes made to the claims by the present amendment. The attached page is captioned "Version With Markings To Show Changes Made."

The Advisory Action asserts that certain claim amendments made in the Amendment After Final Rejection raise new matter issues that would require further consideration and/or search. Applicant respectfully traverses these assertions for at least the following reasons. First, Applicants respectfully submit that the phrase "knockdown and kill" is not new matter. The written description supports compositions and methods for controlling household pests wherein the claimed invention results in the knocking down and killing of cockroaches and ants. Indeed, the examples in the specification specifically set forth both knockdown and mortality data against household pests.

Applicants traverse the Advisory Action's assertion that the claims were broadened in scope to include control over any household pest besides cockroaches and ants. On the contrary, the claims have always been directed to compositions and methods for controlling household pests, including, but not necessarily limited to cockroaches and ants.

In response to the Advisory Action's assertion that designating various function to the same compounds broadens the scope of the claimed invention in Claim 7, Applicants respectfully submit that the scope of Claim 7 as presented in the Amendment After Final Rejection was not different from that which was earlier in the Amendment and Reply in response to the August 9, 2001 Office Action. In particular, the method of Claim 7 comprises the composition of Claim 5 of the Amendment and Reply to the August 9, 2001 Office Action. As such, Applicants respectfully submit that the scope of Claim 7 as presented in the Amendment After Final Rejection did not comprise new matter with respect to different designations of compounds.

With respect to the Advisory Action's assertion that issues of new matter might exist in the newly proposed Claims 46-49, Applicants respectfully traverse this assertion for the reasons

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set forth in the Amendment After Final Rejection. In particular, Claims 46-49 merely recites compositions that are believed to fall within the scope of Claim 5 as set forth in the Amendment and Reply to the August 9, 2001 Office Action.

In view of the above comments, Applicants respectfully request reconsideration and withdrawal of any objections asserting that new matter has been introduced into the claims.

The Advisory Action states that the claimed invention is not necessarily limited to incorporation of all compounds but rather to addition of one or more components to the "rosemary component". In response, Applicants respectfully submit the claimed invention comprises each listed feature as set forth in the Amendment After Final Rejection and as set forth herein. Applicants respectfully submit that the format of the claims herein-presented is merely stylistically changed, setting apart each feature of the claimed invention with indentations and semicolons.

In response to the Advisory Action's assertion that the cited references relate to the problem of controlling various insects and thus are considered to be pertinent to the particular problem within the scope of the claimed invention, Applicants respectfully reiterate and incorporate herein the arguments previously proffered. The cited references simply do not disclose, teach or suggest each and every feature of the claimed invention having the pesticidal effects of knocking down and killing household pests. As such, Applicants respectfully request reconsideration and withdrawal of the rejections under 102 and 103.

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CONCLUSION

Early consideration and prompt allowance of the pending claims are respectfully requested. If anything could be done to place this application in condition for allowance, e.g., by **Examiner's Amendment**, Applicants respectfully request that the Examiner contact the undersigned representative at the telephone number listed below.

To the extent necessary, please grant any extension of time deemed necessary for entry of this communication. Please charge any deficient fees, or credit any overpayment of fees, to Deposit Account 500417.

Respectfully submitted,

Date: April 22, 2003

By: 

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CERTIFICATE OF FACSIMILE TRANSMISSION

I hereby certify that this document (including any paper referred to as being attached or enclosed) is being sent to the U.S. Patent and Trademark Office via facsimile transmission to (703) 872-9307 on the date indicated below, with a coversheet addressed to Assistant Commissioner for Patents, U.S. Patent and Trademark Office, Washington, D.C., 20231.

Date: April 22, 2003

By: 

Willem F. Gadiano, Registration No. 37,136

ATTACHMENT

Version With Markings To Show Changes MadeIN THE CLAIMS

Claims 4, 7, 11, 13, 15, 17, 19, 21, 23, 25, 27, 29, 31, 33, 35, 37, 39, 41, 43, 45-49 are amended, as follow.

4. (Twice Amended) A method for controlling household pests, [wherein controlling is to knockdown and kill,]comprising applying to a[the] location where control is desired a pesticidally-effective amount of a contact pesticidal composition comprising:[, in admixture with an acceptable carrier,]

rosemary oil;[, and]

one or more compounds selected from the group consisting of eugenol, phenethyl propionate, peppermint oil and benzyl alcohol; and

an acceptable carrier;

wherein controlling comprises knocking down and killing the household pests.

7. (Twice Amended) A method for controlling household pests, [wherein controlling is to knockdown and kill] comprising applying to a[the] location where control is desired a pesticidally-effective amount of a pesticidal composition comprising:[, in admixture with an acceptable carrier,]

rosemary oil;

piperonyl butoxide;

[and]one or more compounds[,] selected from the group consisting of eugenol, phenethyl propionate, peppermint oil and benzyl alcohol; and

[in admixture with]an acceptable carrier [selected from the group consisting of isoparaffinic hydrocarbons, methyl salicylate, menthyl salicylate, isopropyl alcohol, and benzyl alcohol];

wherein controlling comprises knocking down and killing the household pests.

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11. (Twice Amended) A method for controlling household pests, [wherein controlling is to knockdown and kill,]comprising applying to a[the] location where control is desired a pesticidally-effective amount of a pesticidal composition comprising:[, in admixture with an acceptable carrier,]

rosemary oil;[,]

one or more conventional pesticides;[, and]

one or more compounds selected from the group consisting of eugenol, phenethyl propionate, peppermint oil and benzyl alcohol; and

an acceptable carrier;

wherein controlling comprises knocking down and killing the household pests.

13. (Twice Amended) A method for controlling household pests, [wherein controlling is to knockdown and kill,]comprising applying to a[the] location where control is desired a pesticidally-effective amount of a pesticidal composition comprising:[in admixture with an acceptable carrier,]

rosemary oil;[,]

sesame oil;[,]

soybean oil;[, and]

one or more [plant essential oils,]compounds selected from the group consisting of eugenol, phenethyl propionate, peppermint oil and benzyl alcohol; and

an acceptable carrier;

wherein controlling comprises knocking down and killing the household pests.

15. (Twice Amended) A method for controlling household pests, [wherein controlling is to knockdown and kill,]comprising applying to a[the] location where control is desired a pesticidally-effective amount of a pesticidal composition comprising:[, in admixture with an acceptable carrier,]

rosemary oil;[,]

sesame oil;[and optionally,]

one or more [plant essential oils,]compounds selected from the group consisting of eugenol, phenethyl propionate, peppermint oil and benzyl alcohol; and

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an acceptable carrier;

wherein controlling comprises knocking down and killing the household pests.

17. (Twice Amended) A method for controlling household pests, [wherein controlling is to knockdown and kill,]comprising applying to a[the] location where control is desired a pesticidally-effective amount of a pesticidal composition comprising:[, in admixture with an acceptable carrier,]

rosemary oil;[,]

soybean oil;[and optionally,]

one or more [plant essential oils,]compounds selected from the group consisting of eugenol, phenethyl propionate, peppermint oil and benzyl alcohol; and

an acceptable carrier;

wherein controlling comprises knocking down and killing the household pests.

19. (Twice Amended) A method for controlling household pests, [wherein controlling is to knockdown and kill,] comprising applying to a[the] location where control is desired a pesticidally-effective amount of a pesticidal composition comprising:[, in admixture with an acceptable carrier,]

rosemary oil;[,]

peppermint oil;[,]

eugenol;

[, and]phenethyl propionate; and

an acceptable carrier;

wherein controlling comprises knocking down and killing the household pests.

21. (Twice Amended) A method for controlling household pests, [wherein controlling is to knockdown and kill,]comprising applying to a[the] location where control is desired a pesticidally-effective amount of a pesticidal composition comprising:[, in admixture with an acceptable carrier,]

rosemary oil;[,]

peppermint oil;[,]

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eugenol;[,]
phenethyl propionate;[,]
[and]methyl salicylate; and
an acceptable carrier;
wherein controlling comprises knocking down and killing the household pests.

23. (Twice Amended) A method for controlling household pests, [wherein controlling is to knockdown and kill,]comprising applying to a[the] location where control is desired a pesticidally-effective amount of a pesticidal composition comprising:[, in admixture with an acceptable carrier,]

rosemary oil;[,]
peppermint oil;[,]
eugenol;[,]
phenethyl propionate;[,]
[and]menthyl salicylate; and
an acceptable carrier;
wherein controlling comprises knocking down and killing the household pests.

25. (Twice Amended) A method for controlling household pests, [wherein controlling is to knockdown and kill,]comprising applying to a[the] location where control is desired a pesticidally-effective amount of a pesticidal composition comprising:[,]

rosemary oil;[,]
peppermint oil;[,]
eugenol;[,]
phenethyl propionate; and
ISOPAR M;
wherein controlling comprises knocking down and killing the household pests.

27. (Twice Amended) A method for controlling household pests, [wherein controlling is to knockdown and kill,]comprising applying to a[the] location where control is

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desired a pesticidally-effective amount of a pesticidal composition comprising:[, in admixture with an acceptable carrier,]

rosemary oil;[,]

peppermint oil;[,]

menthyl salicylate;[, and]

soybean oil; and

an acceptable carrier;

wherein controlling comprises knocking down and killing the household pests.

29. (Twice Amended) A method for controlling household pests, [wherein controlling is to knockdown and kill,]comprising applying to a[the] location where control is desired a pesticidally-effective amount of a pesticidal composition comprising:[, in admixture with an acceptable carrier,]

rosemary oil;[,]

peppermint oil;[,]

[and]soybean oil; and

an acceptable carrier;

wherein controlling comprises knocking down and killing the household pests.

31. (Twice Amended) A method for controlling household pests, [wherein controlling is to knockdown and kill,]comprising applying to a[the] location where control is desired a pesticidally-effective amount of a pesticidal composition comprising:[, in admixture with an acceptable carrier,]

rosemary oil;[and]

soybean oil; and

an acceptable carrier;

wherein controlling comprises knocking down and killing the household pests.

33. (Twice Amended) A method for controlling household pests, [wherein controlling is to knockdown and kill,]comprising applying to a[the] location where control is

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desired a pesticidally-effective amount of a pesticidal composition comprising: [, in admixture with an acceptable carrier,]

rosemary oil; [,]

peppermint oil; [, and]

L-menthyl iso-valerate; and

an acceptable carrier;

wherein controlling comprises knocking down and killing the household pests.

35. (Twice Amended) A method for controlling household pests, [wherein controlling is to knockdown and kill,] comprising applying to a [the] location where control is desired a pesticidally-effective amount of a pesticidal composition comprising: [, in admixture with an acceptable carrier,]

rosemary oil; [,]

peppermint oil; [,]

soybean oil; [, and]

L-menthyl iso-valerate; and

an acceptable carrier;

wherein controlling comprises knocking down and killing the household pests.

37. (Twice Amended) A method for controlling household pests, [wherein controlling is to knockdown and kill,] comprising applying to a [the] location where control is desired a pesticidally-effective amount of a pesticidal composition comprising: [, in admixture with an acceptable carrier,]

rosemary oil; [,]

peppermint oil; [,]

benzyl alcohol; [and]

soybean oil; and

an acceptable carrier;

wherein controlling comprises knocking down and killing the household pests.

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39. (Twice Amended) A method for controlling household pests, [wherein controlling is to knockdown and kill,]comprising applying to a[the] location where control is desired a pesticidally-effective amount of a pesticidal composition comprising:[, in admixture with an acceptable carrier,]

rosemary oil;[,]

peppermint oil;[,]

soybean oil;[and]

sesame oil; and

an acceptable carrier;

wherein controlling comprises knocking down and killing the household pests.

41. (Twice Amended) A method for controlling household pests, [wherein controlling is to knockdown and kill,]comprising applying to a[the] location where control is desired a pesticidally-effective amount of a pesticidal composition comprising:[, in admixture with an acceptable carrier,]

rosemary oil;[,]

peppermint oil;

[and] sesame oil; and

an acceptable carrier;

wherein controlling comprises knocking down and killing the household pests.

43. (Twice Amended) A method for controlling household pests, [wherein controlling is to knockdown and kill,]comprising applying to a[the] location where control is desired a pesticidally-effective amount of a pesticidal composition comprising:[, in admixture with an acceptable carrier,]

rosemary oil;[,]

soybean oil;

[and] sesame oil;

an acceptable carrier;

wherein controlling comprises knocking down and killing the household pests.

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45. (Twice Amended) A method for controlling household pests, [wherein controlling is to knockdown and kill,]comprising applying to a[the] location where control is desired a pesticidally-effective amount of a pesticidal composition comprising:[, in admixture with an acceptable carrier,]

rosemary oil;[,]

peppermint oil;[and]

benzyl alcohol; and

an acceptable carrier.

wherein controlling comprises knocking down and killing the household pests.

46. (Amended) A method for controlling household pests, [wherein controlling is to knockdown and kill,]comprising applying to a[the] location where control is desired a pesticidally-effective amount of a pesticidal composition comprising:[,]

rosemary oil;

sesame oil; [and]

one or more [plant essential oils,]compounds selected from [a]the group consisting of eugenol, phenethyl propionate, peppermint oil and benzyl alcohol; and [in admixture with] an acceptable carrier[selected from a group consisting of isoparaffinic hydrocarbons, methyl salicylate, menthyl salicylate, isopropyl alcohol, and benzyl alcohol];

wherein controlling comprises knocking down and killing the household pests.

47. (Amended) A method for controlling household pests, [wherein controlling is to knockdown and kill,]comprising applying to a[the] location where control is desired a pesticidally-effective amount of a pesticidal composition comprising:[,]

rosemary oil;

soybean oil; [and]

one or more [plant essential oils,]compounds selected from [a]the group consisting of eugenol, phenethyl propionate, peppermint oil and benzyl alcohol; and[in admixture with] an acceptable carrier[selected from a group consisting of isoparaffinic hydrocarbons, methyl salicylate, menthyl salicylate, isopropyl alcohol, and benzyl alcohol];

wherein controlling comprises knocking down and killing the household pests.

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48. (Amended) A method for controlling household pests, [wherein controlling is to knockdown and kill,] comprising applying to a [the] location where control is desired a pesticidally-effective amount of a pesticidal composition comprising:[,]

rosemary oil;

piperonyl butoxide;

soybean oil; [and]

one or more [plant essential oils,] compounds selected from [a] the group consisting of eugenol, phenethyl propionate, peppermint oil and benzyl alcohol; and [in admixture with] an acceptable carrier[selected from a group consisting of isoparaffinic hydrocarbons, methyl salicylate, menthyl salicylate, isopropyl alcohol, and benzyl alcohol];

wherein controlling comprises knocking down and killing the household pests.

49. (Amended) A method for controlling household pests, [wherein controlling is to knockdown and kill,] comprising applying to the location where control is desired a pesticidally-effective amount of a pesticidal composition comprising:[,]

rosemary oil;

sesame oil;

soybean oil; [and]

one or more [plant essential oils,] compounds selected from [a] the group consisting of eugenol, phenethyl propionate, peppermint oil and benzyl alcohol; and [in admixture with] an acceptable carrier[selected from a group consisting of isoparaffinic hydrocarbons, methyl salicylate, menthyl salicylate, isopropyl alcohol, and benzyl alcohol];

wherein controlling comprises knocking down and killing the household pests.